

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 02-0131P**

**Income Tax**

**Calendar Years 1997, 1998, & 1999**

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**ISSUE**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the negligence penalty.

**STATEMENT OF FACTS**

The negligence penalty was assessed on an income tax assessment that resulted from a Department audit conducted for the calendar years 1997, 1998, & 1999.

The taxpayer is an international freight forwarder which arranges the movement of goods from one location to another. The office in Indianapolis employs five people who arrange to expedite shipments. The company has offices in Indiana and 28 other states. The taxpayer also has offices internationally in Canada, Argentina, and El Salvador.

I. **Tax Administration** – Penalty

**DISCUSSION**

The taxpayer argues the negligence penalty should be waived as the error was the result of an unintentional computer math error.

45 IAC 15-11-2(b) states, "Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions

provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

The Department finds the taxpayer was inattentive to tax duties. Inattention is negligence and negligence is subject to penalty. As such, the Department finds the penalty proper and denies the penalty protest.

**FINDING**

The taxpayer’s penalty protest is denied.